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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 09/750,385 | 12/27/2000 | Joyo Wijaya | WVANP013 | 6355 |
| 34071 | 7590 | 02/06/2006 | EXAMINER | |
| IPVENTURE, INC. 5150 EL CAMINO REAL SUITE A-22 LOS ALTOS, CA 94022 | | | THEIN, MARIA TERESA T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3627 | |

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/750,385 | Applicant(s) WIJAYA ET AL. | |
| | Examiner Marissa Thein | Art Unit 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32,34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32,34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicants' request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Applicants' "Response After Final" filed on January 3, 2006 has been considered.

Claims 1, 15, 23, 29, and 34 are amended. Claims 1-32 and 34-35 remain pending in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "said comparing occurs" lacks antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-32 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,970,837 to Walker et al. in view of U.S. Patent No. 6,4632,345 to Peachey-Kountz et al.

Regarding claims 1, 15, 23, Walker discloses a computer implemented method and program for effecting via a computer network (col. 4, lines 63-col. 5, line 2), substitutions of at least one ordered item of at least one customer order, the method comprising: receiving, via a computer network (col. 4, lines 63-col. 5, line 2) at least one customer order (buyer offer), the at least one customer order including more than one ordered item (col. 7, lines 1-2); identifying an ordered item in the received customer order (col. 12, lines 3-9; col. 12, line 66 –col. 13, line 20); upon identifying the ordered item relating to the oversold item, automatically substituting (col. 11, lines 51-53), based upon at least one predefine criterion, at least one substitute item for the identified ordered item in the received customer order (col. 12, line 66- col. 13, line 20; col. 18, lines 50-56).

However, Walker does not explicitly disclose the at least one ordered item relating to an ordered quantity larger than one of a particular item of inventory; and analyzing a selected portion of the received customer order taking into consideration at least another customer order to determine whether at least one item of inventory has been oversold, the analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order. Walker discloses multiple items and service (col. 7, lines 1-2). Furthermore, Walker discloses the

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determination of a substitute product is based on inventory information associated with the first product (col. 12, line 66-col. 13, line 1) and sales history information associated with the first product (col. 13, lines 8-9). The determination is based on, with respect to the first product, an actual or forecast product demand, a product life cycle, etc. (col. 13, lines 12-20).

Peachey-Kountz, on the other hand, teaches an ATP (available-to - promise) engine tool and system that automatically makes substitutions based on business decisions, rules and in user-defined information (col. 10, lines 4-7). The business rules, which include customer requirements and enterprise, order commitment policies determine solutions without manual intervention (col. 12, lines 26-32). The Peachy-Kountz teaches the at least one ordered item relating to an ordered quantity larger than one of a particular item of inventory (col. 4, lines 45-67); and analyzing a selected portion of the received customer order taking into consideration at least another customer order to determine whether at least one item of inventory has been oversold, the analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order (col. 3, lines 52-56; col. 3, lines 61-67; col. 5, lines 37-44; col. 7, lines 6-16; col. 10, lines 24-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Walker, to include the at least one ordered item relating to an ordered quantity larger than one of a particular item of inventory; and analyzing a selected portion of the received

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customer order, as taught by Peachy-Kountz, in order to provide optimized product availability information (Peachy-Kountz, col. 4, lines 11-12).

Claims 2-4, 7-10, 18, 26, Walker comparing analyzed order data to inventory data to determine whether at least one item of inventory has been oversold (col. 12, line 66 – col. 13, line 4); the comparing occurs before fulfillment of said portion of the received customer order (Figure 12; col. 12, lines 1-9; col. 19, lines 31-44); the substituting includes selecting, using the at least one predefined criterion, a desired ordered item corresponding to the oversold item (col. 13, lines 8-20; col. 18, line 60 – col. 19, line 6); the ordered item substitution occurs at a time of fulfillment of the portion of the received customer order (col. 9, lines 5-22); the ordered item substitution is performed at a time of fulfilling an order without intervention from a human operator (col. 11, lines 50-67); the substitution is performed by an automated computer process (col. 11, lines 50-67); the one predefined criterion includes a sorted list of substitute products from which the substitute item is chosen (col. 14, lines 19-21).

Claims 5-6, 11-14, 16-17, 24-25, 27-28, Walker substantially discloses the claimed invention, however, it does not explicitly disclose the ratio rule for substituting the substitute item for the identified ordered item; comparing the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon the quantity value associated with each of the identified ordered items; comparing the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon a number related to substitution

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already implemented in each customer order associated with the identified ordered item; and aggregating a selected portions of the received customer orders to determine whether at least one item of inventory has been oversold. Walker discloses multiple items and service (col. 7, lines 1-2). Furthermore, Walker discloses the determination of a substitute product is based on inventory information associated with the first product (col. 12, line 66-col. 13, line 1) and sales history information associated with the first product (col. 13, lines 8-9). The determination is based on, with respect to the first product, an actual or forecast product demand, a product life cycle, etc. (col. 13, lines 12-20). Moreover, Walker discloses the retail device compares and identifier associated with the first product and a set of identifiers associated with acceptable substitute products (col. 12, lines 4-6).

Peachy-Kountz, on the other hand, teaches the ratio rule for substituting the substitute item for the identified ordered item (col. 4, lines 45-67); comparing the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon the quantity value associated with each of the identified ordered items (col. 12, line 65 – col. 12, line 8; col. 12, lines 18-25); comparing the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon a number related to substitution already implemented in each customer order associated with the identified ordered item (col. 12, line 65 – col. 12, line 8; col. 12, lines 18-25); aggregating a selected portions of the received customer orders to determine whether at least one item of inventory has been

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oversold (col. 3, lines 52-56; col. 3, lines 61-67; col. 5, lines 37-44; col. 7, lines 6-16; col. 10, lines 24-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Walker, to include the ratio rule for substituting the substitute item for the identified ordered item; comparing the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon the quantity value associated with each of the identified ordered items; comparing the identified ordered item with at least another identified ordered item in another customer order related to the oversold item based upon a number related to substitution already implemented in each customer order associated with the identified ordered item; aggregating a selected portions of the received customer orders to determine whether at least one item of inventory has been oversold, as taught by Peachy-Kountz, in order to provide optimized product availability information (Peachy-Kountz, col. 4, lines 11-12).

Regarding claims 19-22 and 29-32, Walker substantially discloses the claimed invention, including the at least one predefined criterion to determine a first preferred substitution item for the identified item (col. 13, lines 8-20; col. 18, line 60 – col. 19, line 6). However, Walker does not explicitly disclose whether a sufficient quantity of the first preferred substitution item is available to be substituted for the identified item; accessing the at least one predefined criterion to determine a second preferred substitution item for the identified item in response to a determination that there is an insufficient quantity of the first

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preferred substitution item available to be substituted for the identified item; partially substituting an ordered item of the identified item; and fully substituting an ordered item for the identified item. Walker discloses multiple items and service (col. 7, lines 1-2). Furthermore, Walker discloses the determination of a substitute product is based on inventory information associated with the first product (col. 12, line 66-col. 13, line 1) and sales history information associated with the first product (col. 13, lines 8-9). The determination is based on, with respect to the first product, an actual or forecast product demand, a product life cycle, etc. (col. 13, lines 12-20).

Peachy-Kountz, on the other hand, teaches whether a sufficient quantity of the first preferred substitution item is available to be substituted for the identified item; accessing the at least one predefined criterion to determine a second preferred substitution item for the identified item in response to a determination that there is an insufficient quantity of the first preferred substitution item available to be substituted for the identified item; partially substituting an ordered item of the identified item; and fully substituting an ordered item for the identified item (col. 4, lines 45-67; col. 5, line 66 – col. 6, line 3; col. 10, lines 3-15; col. 10, lines 40-52; col. 12, line 65 – col. 13, line 2; col. 13, lines 11-13)

Regarding claims 34-35, Walker discloses a computer-implemented method comprising: for effecting via a computer network (col. 4, lines 63-col. 5, line 2), substitutions of at least one ordered item of at least one customer order, the method comprising: receiving, via a computer network (col. 4, lines 63-col. 5,

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line 2) at least one customer order (buyer offer), the at least one customer order including more than one ordered item (col. 7, lines 1-2); identifying an ordered item in the received customer order (col. 12, lines 3-9; col. 12, line 66 –col. 13, line 20); upon determining that at least one item has been oversold, , automatically modifying (col. 11, lines 51-53) at least a portion of the received customer orders by substituting alternate merchandise for ordered merchandise, where the substitution of merchandise items implemented by using at least one predefined criterion, at least one substitute item for the identified ordered item in the received customer order (col. 12, line 66- col. 13, line 20; col. 18, lines 50-56); fulfilling the modified customer orders (col. 9, lines 5-22); and the substitution is performed automatically, without intervention by a human (col. 11, lines 51-53).

However, Walker does not explicitly disclose the at least one ordered item relating to an ordered quantity larger than one of a particular item of inventory; aggregating a selected portion of the plurality of customer orders; and analyzing the plurality of ordered items, which includes at least one ordered item, to determine whether at least one items of merchandise has been oversold. Walker discloses multiple items and service (col. 7, lines 1-2). Furthermore, Walker discloses the determination of a substitute product is based on inventory information associated with the first product (col. 12, line 66-col. 13, line 1) and sales history information associated with the first product (col. 13, lines 8-9). The determination is based on, with respect to the first product, an actual or forecast product demand, a product life cycle, etc. (col. 13, lines 12-20).

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Peachey-Kountz, on the other hand, teaches an ATP (available-to - promise) engine tool and system that automatically makes substitutions based on business decisions, rules and in user-defined information (col. 10, lines 4-7). The business rules, which include customer requirements and enterprise, order commitment policies determine solutions without manual intervention (col. 12, lines 26-32). The Peachy-Kountz teaches the at least one ordered item relating to an ordered quantity larger than one of a particular item of inventory (col. 4, lines 45-67); aggregating a selected portion of the plurality of customer orders (col. 3, lines 52-56; col. 3, lines 61-67; col. 5, lines 37-44; col. 7, lines 6-16; col. 10, lines 24-31); and analyzing the plurality of ordered items, which includes at least one ordered item, to determine whether at least one items of merchandise has been oversold (col. 3, lines 52-56; col. 3, lines 61-67; col. 5, lines 37-44; col. 7, lines 6-16; col. 10, lines 24-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Walker, to include the at least one ordered item relating to an ordered quantity larger than one of a particular item of inventory; and aggregating a selected portion of the plurality of customer orders; and analyzing the plurality of ordered items, as taught by Peachy-Kountz, in order to provide optimized product availability information (Peachy-Kountz, col. 4, lines 11-12).

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mtot
February 1, 2006



STEVE B. MCALLISTER
PRIMARY EXAMINER